

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

WISCHERMANN PARTNERS, INC., et)	
al.,)	
)	
Plaintiffs/Counter-Defendants,)	
)	NO. 3:17-cv-00849
v.)	
)	JUDGE CAMPBELL
NASHVILLE HOSPITALITY)	MAGISTRATE JUDGE HOLMES
CAPITAL LLC,)	
)	
Defendant/Counter-Plaintiff,)	
)	
v.)	
)	
PAUL WISCHERMANN,)	
)	
Defendant.)	

ORDER

Pending before the Court is the Motion for Leave to File Motion for Partial Summary Judgment as to Claims for Contractually Barred Damages filed by Plaintiff/Counter-Defendant Wischermann Partners, Inc. (“Wischermann Partners”). (Doc. No. 117). Defendant/Counter-Plaintiff Nashville Hospitality Capital LLC (“NHC”) filed a response in Opposition. (Doc. No. 118). Wischermann Partners seeks permission to move for dismissal on NHC’s “claims for punitive damages and other contractually barred damages.” (Doc. No. 117). As grounds, Wischermann Partners contends “the proposed Motion would present a discrete legal issue which does not involve any disputed material facts and the resolution of which would narrow the issues and proof at for [sic] trial.” (*Id.*).

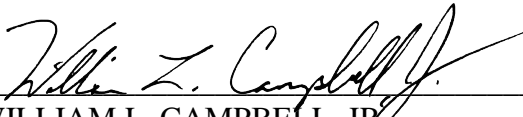
NHC argues the Motion should be denied as premature because the enforceability of the contract provision at issue is contingent upon the resolution of its fraudulent inducement claim.

(Doc. No. 118). Additionally, NHC argues the Motion will not narrow any issues or proof for trial because the proof relevant to whether Wischermann Partners is liable for punitive or other damages is largely the same proof NHC will present at trial for purposes of establishing Wischermann Partners' liability and its entitlement to compensatory damages. (*Id.*).

The Court finds the Motion for Partial Summary Judgment as to Claims for Contractually Barred Damages is premature and against the interests of judicial economy and efficiency. Accordingly, Wischermann Partners' Motion for Leave to File Motion for Partial Summary Judgment as to Claims for Contractually Barred Damages (Doc. No. 117) is **DENIED**. The Motion for Partial Summary Judgment (Doc. No. 119) is **DENIED WITHOUT PREJUDICE**.

The time for filing dispositive motions is expired. (Doc. No. 63 at 2). This case will proceed to a pretrial conference on September 23, 2019, and trial on October 1, 2019.

It is so **ORDERED**.



WILLIAM L. CAMPBELL, JR.
UNITED STATES DISTRICT JUDGE